IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1659 of 2005

Between:

Seelanna, S/o Thimmanna, Fair price shop dealer,
Shop No.1, Chinna Thandrapad Village, Ieeja Mandal,

Mahabubngar District

..... PETITIONER

AND

1 The Joint Collector, Mahabubnagar
2 The Revenue Divisional Officer, Gadwal, Mahabubnagar

District
3 The Mandal Revenue Officer, Ieeja Mandal, Ieeja
Mahabubnagar

District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly in the nature of Writ of Mandamus declaring the inaction on the part of the 1st respondent in not granting stay pending the appeal filed by the petitioner against the order passed by the 2nd respondent in his proceedings No. G/2312/2004 dated 2-11-2004 as arbitrary, illegal, unconstitutional and violative of principles of natural justice and consequently direct the respondents to continue the Petitioner as Fair Price shop dealer till the disposal of the appeal pending before the 1st respondent.

Counsel for the Petitioner: MR.C.B.RAM MOHAN REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is a dealer of the fair price shop of Chinna Thandrapad Village, Ieeja Mandal, Mahboobnagar District. On 02.11.2004, the 2nd respondent suspended the authorization of the petitioner on certain allegations. On the same day, he issued a show cause notice to the petitioner directing him to explain as to why the authorization should not be cancelled for the lapses indicated therein. The petitioner filed an appeal before the 1st respondent together with an application for stay. It is stated that no orders have been passed in the application for stay so far and appropriate directions are sought for.

Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner availed the remedy of appeal under Clause (20) of the A.P.State Public Distribution System Control Order, 2001 (for short 'the Order') aggrieved by the order of suspension, dated 02.11.2004 passed by the 2nd respondent. The appeal was presented on 10.12.2004 along with an application for stay. If the stay application is kept pending for months together, that too in the appeal filed against the order of suspension of dealership, the very appeal would become infructuous.

The 2nd respondent passed an order of suspension on 02.11.2004 and issued a show cause notice on the same day. In the order of suspension, it is not indicated that the suspension ordered against the petitioner is pending enquiry. In the absence of the same, it has to be treated as a substantive penalty, which could be imposed only after conducting enquiry under Clause 5(4) of the Order. Another fact that weighed with this Court is that even while issuing the show cause notice, the 2nd respondent proceeded as if it is proved that the petitioner committed irregularities and violated the conditions of authorization. Such a finding could have been recorded only after considering the explanation of the petitioner.

For the foregoing reasons, the writ petition is disposed of, directing that the order of suspension, dated 02.11.2004 passed against the petitioner remain stayed, pending disposal of the appeal before the 1st respondent and that the petitioner shall be

entitled to function as dealer. There shall be no order as to costs.

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04.02.2005

Jsu

To

1 The Joint Collector, Mahabubnagar
2 The Revenue Divisional Officer, Gadwal, Mahabubnagar

District
3 The Mandal Revenue Officer, Ieeja Mandal, Ieeja
Mahabubnagar District

4 2 CCs to the G.P. for Civil Supplies, High Court Buildings,

Hyderabad. (OUT)

5 2 CD copies.